

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

BUCK ANDREWS JOHNSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-07-211-M
)	
MICHAEL OFSACK, et al.,)	
)	
Defendants.)	

ORDER

On February 3, 2009, United States Magistrate Judge Doyle Argo issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging the violation of certain constitutional rights during plaintiff's incarceration at the Oklahoma County Detention Center ("OCDC"). The Magistrate Judge recommended the Court grant the motion to dismiss of defendant Whetsel in his individual capacity [docket no. 54], and dismiss the action against him without prejudice. The Magistrate Judge also recommended the Court deny the motion to dismiss of defendant Roderick Robinson [docket no. 59]. The Magistrate Judge further recommended the Court deny plaintiff's motion for summary judgment/default judgment [docket no. 56] and plaintiff's motion to "Advance Cause for Summary Judgment Against Defendant Michael A. Ofsak" [docket no. 71]. Lastly, the Magistrate Judge also recommended the Court deny plaintiff's motion to require defense counsel to withdraw [docket no. 73]. The parties were advised of their right to object to the Report and Recommendation by February 23, 2009. A review of the file reveals no objection has been filed.

Upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on February 3, 2009;

- (2) DENIES the motion to dismiss of Roderick Robinson [docket no. 59], plaintiff's motion for summary judgment/default judgment [docket no. 56], plaintiff's motion to "Advance Cause for Summary Judgment Against Defendant Michael A. Ofsak" [docket no. 71], and plaintiff's motion to require defense counsel to withdraw [docket no. 73];
- (3) GRANTS the motion to dismiss of defendant Whetsel in his individual capacity [docket no. 54];
- (4) DISMISSES the action against defendant Whetsel in his individual capacity without prejudice.

IT IS SO ORDERED this 3rd day of March, 2009.


VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE